

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

LARRY CONGO,

Petitioner,

v.

THE COUNTY OF PHILADELPHIA, et al.,

Respondents.

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No. 18-cv-4554

AMENDED ORDER¹

AND NOW, this 27th day of June, 2019, upon consideration² of the Petition for Writ of Habeas Corpus, ECF No. 1; Petitioner's Supplement to the Petition, ECF No. 6; Petitioner's Revised Petition Forms, ECF No. 10; Petitioner's letters to the Court, ECF Nos. 8, 9, 11; and the Report and Recommendation (R&R) of United States Magistrate Judge David R. Strawbridge, ECF No. 12, in which Magistrate Judge Strawbridge recommends that the Petition be dismissed, **IT IS ORDERED THAT:**

1. The Report and Recommendation, ECF No. 12, is **APPROVED and ADOPTED**.

¹ This order replaces the Court's previous order of June 25, 2019, ECF No. 14, which is rescinded.

² When neither party objects to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report, under de novo or any other standard. 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 152 (1985). Nevertheless, the United States Court of Appeals for the Third Circuit has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987), *writ denied* 484 U.S. 837 (1987). "When no objections are filed, the district court need only review the record for plain error or manifest injustice." *Harper v. Sullivan*, No. 89-4272, 1991 U.S. Dist. LEXIS 2168, at *2 n.3 (E.D. Pa. Feb. 22, 1991). *See also Hill v. Barnacle*, No. 15-3815, 2016 U.S. App. LEXIS 12370, at *16-17 (3d Cir. 2016) (holding that even when objections are filed, district courts "are not required to make any separate findings or conclusions when reviewing a Magistrate Judge's recommendation de novo under 28 U.S.C. § 636(b)"); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (explaining that in the absence of a timely objection, the court should review the magistrate judge's report and recommendation for clear error). The district court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1)(C).

2. The petition for writ of habeas corpus, ECF No. 1, is **DISMISSED**.
3. There is no basis to issue a certificate of appealability.³
4. This case is **CLOSED**.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge

³ The Petitioner has not demonstrated that reasonable jurists would debate the correctness of this procedural ruling, as required for a certificate of appealability from a denial of a habeas petition on procedural grounds. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).